

REMARKS/ARGUMENTS

The claims have been divided into Groups as follows:

Group I: Claim(s) 1-5, drawn to a process of producing a wax composition.

Group II: Claim(s) 6-13, 17-22, and 27-30, drawn to a wax composition.

Group III: Claim(s) 14 and 23, drawn to a moisture proof film.

Group IV: Claim(s) 15, drawn to a laminate.

Group V: Claim(s) 16, drawn to a container.

Group VI: Claim(s) 24-26, drawn to a method of producing a laminate.

Applicants elect, with traverse, Group I, Claims 1-5, drawn to a process of producing a wax composition, for examination.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Office has asserted that Groups I - VI do not relate to a single general inventive concept under PCT Rule 13.1 because there is lack of unity. The Office has alleged that the “common technical feature is the wax composition of claim 7. This composition of a wax and a biodegradable amorphous polymer is known in the prior art (Hideyuki et al. JP 07-278510).”

Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

“The expression “special technical features” is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).”

Applicants respectfully submit that the Examiner has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

Furthermore, 37 C.F.R. § 1.475(b) states in pertinent part:

“An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(3) A product and a process specially adapted for the manufacture of the said product, and a use of the said product; . . .”

Applicants respectfully submit that the Office has not considered the relationship of the inventions of Groups I-VI with respect to 37 C.F.R. § 1.475(b)(3).

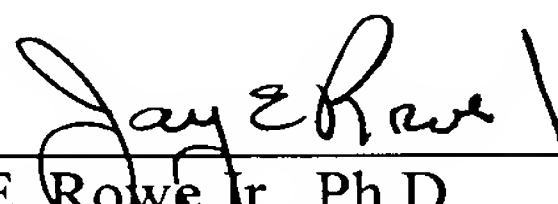
Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction.

Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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